

Notified via
ILM Email
EKW
Jill
Jul 21/06

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

---:---

THE ESTATE OF ERIK A. POWELL,) Civil No.
THROUGH PERSONAL REPRESENTATIVE) CV04-00428 LEK
MARY K. POWELL; THE ESTATE OF)
JAMES D. LAUGHLIN, THROUGH PERSONAL)
REPRESENTATIVE RAGINAE C. LAUGHLIN;)
MARY K. POWELL, INDIVIDUALLY;)
RAGINAE C. LAUGHLIN, INDIVIDUALLY;)
CHLOE LAUGHLIN, A MINOR, THROUGH)
HER NEXT FRIEND, RAGINAE C.)
LAUGHLIN,)

COPY

Plaintiffs,

vs.

CITY AND COUNTY OF HONOLULU,

Defendant,

and

CITY AND COUNTY OF HONOLULU,

Third-Party Plaintiff,

vs.

UNIVERSITY OF HAWAII, a body
Corporate; JOHN DOES 1-10, JANE
DOES 1-10; DOE CORPORATIONS and
DOE ENTITIES,

Third-Party Defendants.

EXHIBIT "32"

DEPOSITION OF RONALD BREGMAN

Taken on behalf of Plaintiffs at the Law Offices of Ian L.
Mattoch, 737 Bishop Street, Suite 1835, Honolulu Hawaii,
commencing at 1:00 p.m. on March 6, 2006, pursuant to
Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391
Notary Public, State of Hawaii

CV04-00428

POWELL v. CITY & COUNTY OF HONOLULU

Page 57

Page 59

1 occur at Hanauma Bay Hanauma Bay while you were there?

2 A. Two to three per year.

3 Q. And were there any kind of markers or devices
4 that you ever used in the water to block off areas or
5 indicate areas?

6 A. The only thing that we ever used while I was
7 there was round plastic orange buoys, which we would place
8 at the inside of the channel to mark it where it was
9 (indicating).

10 Q. What was the purpose of the buoy?

11 A. The purpose of the buoy was for identification,
12 primarily.

13 Q. For you as a lifeguard or for the swimmers?

14 A. Both.

15 Q. To know where the channel started?

16 A. Yes.

17 Q. And were those up every day, or just certain
18 days?

19 A. It was intermittent. Some days -- sometimes they
20 would be up for a period of time. And then they would
21 disappear or --

22 Q. Did you personally put them in in the daytime?

23 A. I did, on occasion.

24 Q. What prompted you to put them up?

25 A. Dangerous conditions. Rough conditions.

1 A. Yes.

2 Q. Did you, as a Water Safety Officer, were there
3 meetings in the mornings, prior to starting work?

4 A. Nothing formal. But as a Water Safety Officer,
5 you report to the beach. You would meet with the other
6 lifeguards.

7 Q. That would be part of your daily routine?

8 A. Yes.

9 Q. Was that social, or was it more talk about the
10 conditions?

11 A. More to talk about conditions.

12 Q. At Hanauma Bay, you said there are four
13 lifeguards on duty at any given time.

14 Was there always someone who was the most senior?

15 A. Well, yes. There's always somebody who is --

16 Q. Who acts as a supervisor?

17 A. No, no.

18 Q. Then, obviously, there's various years of
19 experience --

20 A. Yes.

21 Q. -- amongst the four lifeguards, right?

22 A. Yes.

23 Q. Would you say that you worked equally in both 3A
24 and 3B towers?

25 A. Yes.

Page 58

Page 60

1 Q. Why would having a buoy in the water in rough
2 conditions assist you?

3 A. For one thing, if somebody approached the tower
4 and asked where the channel was or, you know -- it would
5 serve as like, the marker that I could point to.

6 So it would help warning them, but that was
7 primarily it. It might help them when they are trying to
8 return to shore outside the reef. It may help them
9 identify where they can swim through, rather than swim over
10 the reef.

11 Q. And were they out, these buoys you said, buoys
12 plural, where were they located?

13 A. Right inside (indicating), where the channel was.

14 Q. So inside the reef?

15 A. Inside the reef, yes. Where the current would
16 start, yeah. Where the current would start pulling out.

17 Q. Were they always in the same place?

18 A. Same general area.

19 Q. Would you be able to mark with this red pen where
20 the buoys would be located with just circles or dots?

21 A. (Indicating.)

22 Q. You indicated four little circles or dots at the
23 beginning of the channel or the Slot?

24 A. Yes.

25 Q. That shows where the buoys would be located?

1 Q. What type of viewing equipment do you use?

2 A. Binoculars.

3 Q. Anything else?

4 A. No.

5 Q. Did you have a megaphone?

6 A. Yes.

7 Q. Now, with regard to 3A and 3B, is there a general
8 area of responsibility that each tower has?

9 A. In general, 3A would cover the Deep Holes,
10 Sandman's Patch, and the channel.

11 3B would cover the Key Hole and the Back Door.
12 And then the Triangle would be shared.

13 Q. How about Witches Brew?

14 A. Witches Brew would be more the responsibility of
15 3A, because they are closer to it.

16 Q. From the 3A Tower, are you able to see the water
17 of Witches Brew on the ocean side of the bay?

18 A. No.

19 Q. So what is this? Witches Brew point?

20 A. Point or peninsula.

21 Q. That would block the Witches Brew's area?

22 A. Yes.

23 Q. Okay. Specifically referring to the day of the
24 accident when you were working as a supervisor, just tell
25 me what you remember, starting from how you found out about

15 (Pages 57 to 60)

RONALD BREGMAN

3-6-2006